

Exhibit G

12-14-05 hearing transcript.txt

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5CESVILAR
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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UNITED STATES OF AMERICA,

v.

05 Cr. 621

ALBERTO VILAR and GARY TANAKA,
Defendants.

-----X

December 14, 2005
9:45 a.m.

Before:

HON. KENNETH M. KARAS,

District Judge

APPEARANCES

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York
MARC LITT,
Assistant United States Attorney

SUSAN WOLFE, ESQ.
JEFFREY HOFFMAN, ESQ.
Attorneys for Defendant Alberto Vilar

GLENN COLTON, ESQ.
STEVEN KOBRE, ESQ.
Attorneys for Defendant Gary Tanaka

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(Case called)
MR. LITT: Marc Litt for the United States.
Good morning, your Honor.
With me is U.S. Postal Inspector Cynthia Fraterrigo.
MR. HOFFMAN: Good morning, Jeff Hoffman and Susan
Wolfe for Mr. Vilar.
THE COURT: Were you on trial, Mr. Hoffman?
MR. HOFFMAN: I was.
THE COURT: Welcome back.
MS. WOLFE: With us is Joanna Evans, an attorney not
yet admitted to the bar.

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12 THE COURT: Good morning, Ms. Evans and welcome.

13 MR. KOBRE: Steven Kobre for Mr. Tanaka along with
14 Glenn Colton and Jessica Margolies.

15 THE COURT: Good morning to you all.

16 Of course, we scheduled this to have a hearing on the
17 defendants' motion to suppress both the fruits of a search, a
18 court-authorized search, as well as statements. I had issued
19 an order last week indicating that I was denying the defense
20 motion for a Franks hearing and I also had asked Mr. Tanaka to
21 brief the question of his standing to challenge the search as
22 he joined in with Mr. Vilar's motion to suppress the fruits of
23 the search.

24 Mr. Litt, I assume you have had a chance to read Mr.
25 Kobre's letter?

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1 MR. LITT: I have.

2 THE COURT: Is there anything you want to say in
3 response to it?

4 MR. LITT: No, your Honor.

5 THE COURT: I think Mr. Kobre persuasively made the
6 case that Mr. Tanaka has standing to challenge the search and
7 so I thank you for that, Mr. Kobre, for enlightening me on
8 that. And so he will obviously be allowed to participate in
9 the part of the hearing that relates to the search in addition
10 to the part that relates to his own statements with respect to
11 the Franks hearing, the primary argument that is made in
12 support of the Franks hearing, and I want to be very
13 specific --

14 MS. WOLFE: Page 19, your Honor.

15 THE COURT: Yes. I was thrown off because I think the
16 table of contents says 16.

17 The thrust of the claim here is that the allegations
18 in the affidavit, referring to the affidavit in support of the
19 search, concerning the Mayer investments have never been the
20 subject of a criminal complaint and are not included in the
21 current indictment. And what Vilar argues, and I am reading
22 here, "This circumstance suggests that there is some
23 information in the government's possession that contradicts the
24 allegation of criminality in connection with the Mayer
25 investments. If such exculpatory evidence was in the

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1 government's possession at the time of the search warrant
2 affidavit it would have been misleading to withhold that
3 information from the magistrate."

4 And really what that amounts to is comparing the
5 affidavit and the allegations in the absence of any actual
6 charge in the indictment. And then the conjecture, and really
7 that is what it is, is that there must be some sort of
8 exculpatory information which by virtue of its omission is
9 somehow then misleading. And of course as counsel knows the
10 requirement for a Franks hearing is much more exacting than
11 that. There has to be a "substantial showing that the affiant
12 knowingly, intentionally or recklessly misled the magistrate
13 judge." And there is nothing in the allegation and, as I say,
14 it really is conjecture.

15 The fact that there are certain allegations made that
16 support, in the government's view, probable cause to believe

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17 that there might be evidence in the searched premises of a
18 crime and the fact that the crime is not ultimately charged
19 does not mean there wasn't probable cause, nor does it mean
20 that the government withheld anything. To the extent that the
21 defense does not identify anything in particular that was
22 withheld, it really is precisely the type of conjecture that
23 routinely is rejected as basis for a Franks hearing. Among
24 other cases I note is the Singh case which discusses this
25 concept. So I don't think that the defense has met its burden

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1 for a Franks hearing.

2 Now, of course, if in the course of the discovery as
3 this case progresses that changes, then the defense can reopen
4 the issue.

5 I want to do the hearing first and then we can talk.
6 I have some questions with respect, some of which may be
7 clarified by the hearing, but I don't want to get into legal
8 argument now. Let's get started with witness testimony.

9 Is there anything we can take up, however, beforehand?

10 MS. WOLFE: I did want to make some very brief
11 prefatory comments just to put before you something that the
12 court is not aware of that is not addressed in the papers. And
13 that is the fact that on the day of the search, we understand
14 that a subpoena was served on counsel for Amerindo, and at the
15 time we submitted our papers and our reply we weren't aware of
16 that, and the government doesn't mention in their papers, and
17 my understanding is that there was an agreement between the
18 government and counsel for Amerindo that the agents would not
19 continue their search and take everything that they believed
20 they were entitled to take if counsel for Amerindo would agree
21 to preserve the premises and accept service of the subpoena.

22 We have prepared a motion to quash the subpoena, which
23 we can serve on the government today, and I understand that
24 there has been no production made on that subpoena yet.
25 Although some resources have certainly gone in to attempting to

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1 put together the material. And the government certainly should
2 have an opportunity to respond and I can give them papers later
3 in the day.

4 That doesn't change our argument that the search
5 warrant was overbroad and that is an issue which the court will
6 have to determine based on the search warrant and the affidavit
7 establishing probable cause for the search. It also doesn't
8 change our argument that the execution of the warrant was
9 overbroad and that is obviously an issue that is going to be
10 addressed at the hearing.

11 THE COURT: I understand it doesn't change that you
12 want the motions granted but how would you say it affects the
13 consideration of the motion, if at all?

14 MS. WOLFE: Well, it affects it in this respect: when
15 we originally filed our papers based on a probably cursory
16 review of Mr. Vilar's office space, we had represented that the
17 government had taken everything. We didn't go through all the
18 file cabinets that time because we looked at the warrant and I
19 assume they had taken everything.

20 It turns out that instead of taking everything, they
21 served a subpoena which gave the employees and the counsel for

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3 officials carrying out the search had taken what they thought
4 they were allowed to take pursuant to the warrant?

5 MR. LITT: They thought from the areas that they
6 searched, they thought they had taken what they were permitted
7 to take. There was a large area that they had not yet started
8 to search and they did not search that area because Mr. Licker
9 proposed this alternative route to get documents and the
10 government agreed.

11 THE COURT: Okay.

12 MR. LITT: Had the search continued the agents would
13 have gone through all of those cabinets, boxes, documents and
14 made a determination as to whether or not it fell under the
15 warrant.

16 THE COURT: Thinking in terms of the discovery that is
17 left to be produced, and I am not sure where things stand on
18 the privilege issue, in October when Mr. Licker was apparently
19 ready to hand over the first wave of documents that he thought
20 were responsive to the subpoena had he done a privilege review
21 or was that still something that had to be done?

22 MR. LITT: For those documents?

23 THE COURT: Correct.

24 MR. LITT: I had no discussions with Mr. Licker about
25 that with respect to those documents. The issue of privilege

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1 has been lingering over this case from almost the outset.

2 THE COURT: Lingering is one word, yes.

3 MR. LITT: And Mr. Licker I believe was well aware of
4 the fact that there were privilege issues and that there would
5 be privilege issues with respect to documents responsive to the
6 subpoena, but I never had a specific conversation with him
7 about privilege and the subpoena.

8 THE COURT: All right. We need to tee this up because
9 obviously the -- and I will hear from Mr. Tanaka's counsel, but
10 there are an number of layers to this. There is the motion to
11 quash, which is coming I gather. There is its impact, the
12 subpoenas impact on the execution of the search and how that
13 relates to the claim of overbreadth, and then there is the
14 discovery issue and the trial date issue because what I am
15 concerned about is that it sounds like a volume of documents
16 that the government has yet to receive and it may never receive
17 if I grant the motion to quash.

18 If I deny the motion to quash, then it receives it and
19 then we have the privilege issue and we have to get it copied
20 and turned over to the defendants ASAP. And it sounds like
21 it's some volume of material right, Mr. Litt? We are not
22 talking about a box. We are talking about maybe many, many
23 boxes.

24 MR. LITT: As I say, my best recollection of what Mr.
25 Licker told me it was on the order of 20, 25 boxes.

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1 THE COURT: Are we talking electronically-stored
2 materials as well or just hard copies?

3 MR. LITT: I believe it's hard copy. I don't know
4 what Mr. Licker decided to do. He at one point mentioned he
5 might be having those documents scanned onto DVDs as opposed to
6 copying the hard documents. I don't know what he decided
7 because I haven't seen anything.

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8 THE COURT: All right.
 9 Mr. Colton, you were about to stand up.
 10 MR. COLTON: If your Honor wants a further update on
 11 the privilege issue now I am happy to do it, unless you wanted
 12 to get to the hearing and do it after.
 13 THE COURT: Let's get to the hearing. I don't know
 14 how much of this is new to you or not and obviously you are
 15 hearing Mr. Litt's recitation I presume for the first time.
 16 why don't we get to the hearing because then you all may want
 17 to huddle and think about how you would want to respond to what
 18 Mr. Litt said. And we ought to talk about a schedule for the
 19 motion to quash in terms of when it gets filed. I don't know
 20 if you want to join the motion. I presume you might.
 21 MR. COLTON: Yes.
 22 THE COURT: Then, of course, we have to tee it up. Is
 23 that all right with you, Mr. Colton?
 24 MR. COLTON: That is fine. I will change gears and
 25 tell you something you will be happy to hear.
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1 THE COURT: Okay.
 2 MR. COLTON: In discussions with Mr. Litt last night,
 3 the government had, after evaluating its options, informed
 4 counsel for Mr. Tanaka that they will not use any statements
 5 made by Mr. Tanaka post arrest up to the time of presentment
 6 with counsel attached in its case in chief, which by my reading
 7 obviates the need to have an evidentiary hearing on the
 8 question of whether Mr. Tanaka was given his Miranda rights and
 9 warnings and whether those statements were voluntary because
 10 the government is saying they won't use them in the case in
 11 chief. So we of course are prepared, but my guess is there is
 12 no need for that portion of the hearing.
 13 THE COURT: I think that is right. The only question
 14 for you is as you know what the law says is to the extent that
 15 the statements are merely un-Mirandized but otherwise not
 16 coerced, to the extent the government would want to use either
 17 the fruits of any statements or to use the statements, for
 18 example, on cross examination should your client take the
 19 stand, then the question of voluntariness becomes material.
 20 And I don't know, and I didn't read your motion to say that
 21 there was some sort of coercive tactics employed by the postal
 22 inspectors, but merely focusing on the un-Mirandized
 23 statements.
 24 Mr. Colton.
 25 MR. COLTON: Yes, the motion was based on the failure
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1 to properly give Miranda warnings and then the argument that
 2 the second post Miranda statements were tainted under Siebert
 3 by virtue of the first set of statements. We recognize that if
 4 it's only a failure to give Miranda and Mr. Tanaka chose to
 5 take the stand in his own defense, those statements could be
 6 used to cross examine him.
 7 If the government proposes some other use besides case
 8 in chief and besides cross examination of Mr. Tanaka, assuming
 9 he takes the stand, we can revisit the issue of voluntariness
 10 at that time but I think that is an unlikely scenario to come
 11 up, and given the court's valuable time it's probably not worth
 12 having a hearing.

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13 THE COURT: My time is worth almost nothing. I don't
14 want to delay the case. I don't know what other use there
15 would be. I don't know enough about the case or your case. If
16 there is some fruits of the statements, for example --

17 MR. COLTON: I think unlikely given it's a one-page
18 memo.

19 THE COURT: I agree but I don't want to presume it.

20 MR. COLTON: If we get totally surprised, then we want
21 to have that reservation, but I frankly can't foresee that.

22 THE COURT: I think that is fair.

23 Mr. Litt, I think they preserve their options if there
24 is something they are not aware of now.

25 MR. LITT: That is acceptable to the government.

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1 THE COURT: So you are here to talk about the search
2 only, referring to Mr. Tanaka's counsel.

3 MR. COLTON: That is right, and the other pretrial
4 issues.

5 THE COURT: All right. So then who is going to
6 testify for the government?

7 MR. LITT: The government intends to call three
8 witnesses, U.S. Postal Inspectors Jean Wright and Thomas Feeney
9 with respect to the Vilar Miranda issue, and then U.S. Postal
10 Inspector John Feiter, who supervised the search.

11 THE COURT: I saw Mr. Feiter's name and that is why I
12 asked. I should let everybody know that in my prior life I
13 worked, I don't know, a couple of cases, a few cases, I am not
14 sure how many, with Mr. Feiter when he was employed at the
15 Postal Inspector's office, which is probably 12, 13 years ago.
16 And I haven't had any contact with him in many, many years. I
17 never did anything socially with him.

18 I can assure counsel it's not going to affect my
19 impartiality in this matter but I did want to disclose that
20 because I did see his name in some of the materials and that is
21 why I asked the question. If anybody wants to discuss it I am
22 happy to discuss the issue.

23 MR. COLTON: We don't believe that raises an issue
24 vis-a-vis Mr. Tanaka.

25 THE COURT: Okay.

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1 MR. LITT: The government has no problem.

2 THE COURT: All right.

3 MS. WOLFE: No objection, your Honor.

4 THE COURT: Mr. Kobre, you were standing.

5 MR. KOBRE: Yes.

6 Your Honor, I understand from Mr. Litt, and I am sure
7 it will be subject to your Honor's direction, that it was the
8 government's intent to call the witnesses relating to Mr.
9 Vilar's statement first and then handle the issue related to
10 the search. Subject to whatever your Honor's ruling is that is
11 obviously acceptable to us. The only points is I do note there
12 is at least one witness that Mr. Litt just mentioned that does
13 appear to have been present at the search as well and I just
14 wanted to ensure if we are going to handle Mr. Vilar's
15 statement issues first that I obviously will not be questioning
16 the witness, that I at least be able to have reserved or not
17 waived the opportunity to call that witness in relationship to

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18 the search.
19 THE COURT: That seems eminently reasonable.
20 Mr. Litt?
21 MR. LITT: Well --
22 THE COURT: Unless you want him crossed in the middle
23 of the Vilar statement testimony.
24 MR. LITT: There is one witness I would like to confer
25 with if I could because she came up from Washington for this
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1 and as of yesterday had things to do back in Washington and I
2 was going to put her on first. If I can just check.
3 MR. KOBRE: I can talk to Mr. Litt and we might be
4 able to narrow it as to who the witness is.
5 THE COURT: Of course.
6 (Pause)
7 MR. KOBRE: It turns out it's the witness he was
8 concerned about and so Mr. Litt has to check.
9 THE COURT: All right.
10 MR. LITT: Your Honor, I have talked to the agent and
11 Mr. Kobre. The agent apparently does not need to get back to
12 Washington and I think it would be best to keep the two pieces
13 separate.
14 THE COURT: Okay.
15 So with that, then, you want to call your first
16 witness, Mr. Litt?
17 MR. LITT: Yes, the government calls U.S. Postal
18 Inspector Jean Wright.
19 THE COURT: Okay.
20 JEAN WRIGHT,
21 called as a witness by the Government,
22 having been duly sworn, testified as follows:
23 DIRECT EXAMINATION
24 BY MR. LITT:
25 Q. Good morning.

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5CESVILAR wright - direct
1 A. Good morning.
2 Q. Ms. Wright, how are you employed?
3 A. United States postal inspector.
4 Q. How long have you been a United States postal inspector?
5 A. 13 years.
6 Q. What is your current assignment?
7 A. I am the team leader of the Manhattan mail theft team.
8 Q. I am sorry, if you can speak up a little bit.
9 A. I am the team leader of the Manhattan mail theft team.
10 Q. How long have you been the team leader of that team?
11 A. Since June of this year.
12 Q. What was your assignment prior to that?
13 A. I was a member of the securities fraud team.
14 Q. How long were you a member of the securities fraud team?
15 A. From August 2004.
16 Q. In your 13 years as a U.S. postal inspector, approximately
17 how many arrests have you participated in, if you can estimate?
18 A. Probably a couple of hundred.
19 Q. Did you participate in the arrest of an individual named
20 Alberto Vilar on May 26, 2005?
21 A. Yes, I did.
22 Q. If you saw Mr. Vilar again do you think would you be able

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14 Q. What about what you saw and read led to you that
15 conclusion?

16 A. There was a seal and a sign -- and a signature, rather, by
17 a magistrate. It had a magistrate's number on it and the rider
18 called for documents that went to the investigation.

19 Q. Did the rider stand out as being different from or similar
20 to -- strike that.

21
22 MR. LITT: No further questions.

23 THE COURT: Cross examination.

24 MS. WOLFE: Thank you, your Honor.

25 (Continued on next page)

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Feiter - direct

1 CROSS EXAMINATION

2 BY MS. WOLFE:

3 Q. Inspector Feiter, good afternoon. I am Susan Wolfe and I
4 will be asking you some questions.

5 When you talk about a rider, are you actually
6 referring to the search warrant? In other words, is the rider
7 a document which describes what can be seized during the
8 search?

9 A. Yes.

10 Q. And that rider is actually attached to the physical search
11 warrant?

12 A. Yes, it is.

13 Q. And the warrant, the actual warrant commands the agents to
14 seize the documents in the search warrant or in the attached
15 rider, is that correct?

16 A. Correct.

17 Q. Okay.

18 You mentioned that there was a sketch of the offices
19 made prior to the agents doing the actual search.

20 A. Well, it was being drawn up before the search started. By
21 the time it was completed the search would have been already
22 commenced.

23 Q. Do you have a copy of that sketch with you?

24 A. I do not, no.

25 MS. WOLFE: Can I ask the government if it has a copy
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Feiter - cross

1 and if we can review it?

2 MR. LITT: I don't have a copy with me. I do have one
3 in my office.

4 THE COURT: Maybe at the lunch break. Okay.

5 Q. During the meeting at headquarters before all of the agents
6 went out to search, they were advised of a search protocol?

7 A. Yes.

8 Q. What is a search protocol?

9 A. They are given their assignments for what each of them will
10 be responsible for. They are instructed on who will be
11 entering the building first or the premises first. They are
12 given a copy of the rider and the affidavit that supports the
13 search warrant and instructed to read it so that the items that
14 they will be attempting to seize or that they decide to seize
15 are in compliance with that.

16 Q. And what time did this meeting start that morning?

17 A. I don't have a definite time, but I believe we met about 6
18 o'clock.

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- 19 Q. And what time did you leave to go to the search premises?
20 A. Probably about 7:30.
21 Q. Is there a written document that describes the search
22 protocol in this case?
23 A. No. Other than the sign-in sheet that each inspector
24 signed to acknowledge reading and attending the briefing.
25 Q. You testified that during this meeting you gave the agents

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Feiter - cross

- 1 an overview of the case.
2 A. Yes, myself and the case agent, yes.
3 Q. Which means that you summarized what the allegations of
4 alleged wrongdoing were, is that right?
5 A. Correct.
6 Q. Is that contained or is that overview contained in any
7 document?
8 A. No.
9 Q. Can you tell us or summarize for us what that overview was?
10 A. I can't remember exactly. It would have given the names of
11 the suspects in the case, names of victims, and the general
12 thought for myself because I wasn't the case agent, this was an
13 investment fraud and you have the rider to refer to names that
14 we are looking for.
15 Q. And when you say names of victims, how many names of
16 victims were given during that meeting?
17 A. I don't know exactly. I probably would have read that or I
18 know I would have read that off of the complaint, the complaint
19 for the search warrant for the affidavit.
20 Q. So as far as the agents were instructed, there were certain
21 victims who were identified in the search warrant affidavit,
22 correct?
23 A. Yes, there were.
24 Q. And it was records pertaining to those victims that the
25 agents were more specifically directed to seize, is that

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Feiter - cross

- 1 correct?
2 A. No.
3 Q. Your overview gave the names of the victims, the names of
4 the suspects and a general description of the fraud, correct?
5 A. It gave the names of some of the victims that were
6 mentioned in the affidavit that was submitted for the search
7 warrant.
8 Q. Well, let me ask you again: Can you tell me what the
9 overview was that you gave the agents?
10 A. I gave them a brief description of the case as an
11 investment fraud investigation. I gave them the names of the
12 two targets of the investigation who were being sought at that
13 time with arrest warrants, and I read to them some of the names
14 of the victims of the fraud or of the alleged fraud that were
15 listed in the search warrant affidavit.
16 Q. And is it your testimony that you said these are some of
17 the names of the victims?
18 A. I can't recall how exactly I put that, no.
19 Q. And you also said that the agents had an opportunity to ask
20 questions.
21 A. Yes.
22 Q. Did any agents ask questions at that time?
23 A. At the briefing?

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24 Q. Yes.

25 A. I cannot recall.

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SCESVILAR Feiter - cross

1 Q. You mentioned -- and I am going to jump an ahead a little
2 bit. You mentioned having conversations with an attorney for
3 the firm. On the premises you had a conversation with an
4 attorney from the firm. You were referring to a gentleman
5 named Eugene Licker?

6 A. Yes.

7 Q. And when during the day did he arrive?

8 A. Early on, if I remember correctly.

9 Q. Early on is before noon or afternoon?

10 A. I believe it was before noon.

11 Q. And I ask you this: If you know, how is it that he became
12 aware that his presence might be needed on the premises?

13 A. That I don't know.

14 Q. There were individuals on the premises and I am not talking
15 about the agents, and one of them asked if he could call the
16 company's lawyer, isn't that correct?

17 A. I just don't recall that.

18 Q. You don't recall anyone asking you personally if the
19 company's lawyer could be called?

20 A. Correct.

21 Q. Do you know whether that was asked of any other agent?

22 A. I have no knowledge of that.

23 Q. You mentioned that one of the first tasks was to label the
24 areas that would be searched.

25 A. Correct.

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SCESVILAR Feiter - cross

1 Q. How many areas were to be searched?

2 A. The entire premises.

3 Q. How many areas, breaking them down if it's A through X or A
4 through double S, how many areas needed to be searched that
5 day?

6 A. Without seeing the master position list, I can't recall the
7 exact number.

8 Q. Do you have a copy of the master position list with you?

9 A. No, I do not.

10 MS. WOLFE: Your Honor, I would like to have marked or
11 deemed marked for identification Defendant Vilar Exhibit A. It
12 is identified as 3505D.

13 THE COURT: Okay.

14 MS. WOLFE: May I approach the witness?

15 THE COURT: You certainly may.

16 Q. Agent Feiter, let me show you what is marked as 3505D and
17 ask to you take a look at it.

18 A. All right.

19 Q. Is that document what you just described as a master
20 position list?

21 A. No.

22 Q. There is another document that you were referring to?

23 A. Yes.

24 Q. Okay, thank you.

25 MS. WOLFE: May I ask that the government produce the
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16 Amerindo entities' brokerage records for an indeterminate time
17 period other than brokerage records at Bear Stearns?

18 A. No, I don't believe so.

19 Q. What is your understanding of what this paragraph directed
20 your agents to seize?

21 A. Those records from any broker that were trades were
22 conducted away and then settled in the Bear Stearns accounts.

23 Q. And how do you determine or how would you go about finding
24 such records?

25 A. You would have to review the files to see if there were

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1 such records there.

2 Q. And did the agents review on the premises that day all the
3 files of all the brokerage records? And we are talking about
4 the ones other than Bear Stearns.

5 A. As I said, I did not conduct, other than several small
6 positions, any other search. The agents were instructed to use
7 this rider in the positions that they were searching.

8 Q. But you would agree that in order to determine what falls
9 into this category it would require an analysis of trade
10 records?

11 A. I can't say that, no.

12 Q. Would you look at paragraph 14 for me please. And that
13 paragraph calls for records of expenses of any type --
14 withdrawn.

15 That paragraph calls for records of any expenses for
16 goods and services provided to Amerindo which includes the
17 Amerindo entities described in paragraph 1.

18 A. To me it calls for records of expenses and payments for
19 goods and services to Amerindo.

20 Q. And what time period does that cover?

21 A. There is no time period.

22 Q. Could you look at paragraph 16 please. And that paragraph
23 calls for photographs, diaries and other items concerning the
24 identities of participants in the fraud schemes.

25 A. I have two paragraph 16s on this.

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1 Q. The first paragraph 16.

2 A. Yes.

3 Q. Who were the participants according to the search warrant
4 rider in the fraud scheme?

5 A. The two targets of the investigation.

6 Q. So that paragraph would be limited to photographs, address
7 books, Rolodexes and diaries that reflect information about the
8 two targets, is that your understanding?

9 A. Yes.

10 Q. Just to go back for one minute, during the time period of
11 the search it was approximately more than 12 hours, until 9:30?

12 A. Somewhere around 12 hours.

13 Q. Were you there the entire time?

14 A. Yes.

15 Q. Other than what we discussed before about photographs, did
16 any of the executing agents ask you any questions?

17 A. Yes.

18 Q. And can you tell us the questions that you recall being
19 asked?

20 A. Specific questions, no.

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21 Q. There is no specific questions that you recall being asked
22 on that date?

23 A. No.

24 Q. Do you know whether Agent Fraterrigo entertained questions
25 from the agents who were executing the search warrant on that

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1 day?

2 A. Yes, she did.

3 Q. And did you have occasion to refer questions to Agent
4 Fraterrigo?

5 A. Yes.

6 Q. Agent Feiter, you remember this morning you looked at the
7 inventory of the search?

8 A. Photocopies, yes.

9 Q. And there were certain pages towards the end where there is
10 a big line that says nil, nothing was taken.

11 A. Correct.

12 Q. And would it be fair to say that in most of those -- you
13 know what, withdrawn.

14 Let me show you a document that I have previously
15 marked Defendant Vilar Exhibit F.

16 MS. WOLFE: May I approach, your Honor?

17 THE COURT: You may.

18 MS. WOLFE: Your Honor, I am showing the witness

19 3505B.

20 Q. And do you recognize that document?

21 A. Yes.

22 Q. Is that an inventory of a search you actually conducted?

23 A. Yes.

24 Q. And do you see an item there that says GL2001?

25 A. Yes.

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1 Q. What is that item?

2 A. General ledger 2001.

3 Q. And whose general ledger was that?

4 A. Without seeing the file I couldn't be sure.

5 Q. Agent Feiter, I am going to give you a copy of Government
6 Exhibit 2, which is the inventory, and -- oh, you have it.

7 A. Yes.

8 Q. Good.

9 And I ask you to look at page F5.

10 A. You know where that might be? Because these are totally
11 out of order.

12 Q. Let me hand you a copy of a document that I am marking
13 Defendant Vilar Exhibit G.

14 Could you take a look at that document and
15 specifically let me direct your attention to the entry that
16 says "USPS" -- now I have forgotten -- "envelope".

17 MS. WOLFE: May I approach, your Honor?

18 THE COURT: You may.

19 Q. Yes, can you read that entry for us, the first part of the
20 entry before the semicolon.

21 A. "USPIS envelope containing invoice number 50174, Dr. John
22 Rutledge, travel expenses to attend board meetings."

23 Q. And can you tell us what section of the warrant rider that
24 would be covered by?

25 A. No, because I didn't seize this.

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1 Q. Okay.
2 And I assume that would be true for all other
3 inventory sheets except for the one that I showed you where you
4 actually did the seizures?
5 A. Correct.
6 MS. WOLFE: I think I am almost done, your Honor.
7 THE COURT: Okay. Take your time.
8 Q. Agent Feiter, would you take a look, if you still have it
9 up there, at Government Exhibit I believe it's 3. It's the
10 items not taken. It's Government Exhibit 3.
11 Do you have that?
12 A. Yes.
13 Q. Is there any indication on each sheet regarding who
14 actually did the inventory?
15 A. Yes.
16 Q. And would that be the initial right under the date?
17 A. On some it's under the date and on some it might be at the
18 top of the sheet.
19 Q. Did you do any of the inventory for these positions?
20 A. Not that I remember, no.
21 MS. WOLFE: No further questions.
22 Thank you.
23 THE COURT: All right, Mr. Kobre, cross examination.
24 MR. KOBRE: Thank you, your Honor.
25 (Continued on next page)

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1
2 CROSS EXAMINATION
3 BY MR. KOBRE:
4 Q. Inspector Feiter, as you know, my name is Steven Kobre and
5 in the interest of full disclosure in my prior life we have
6 worked together a number of times, is that correct?
7 A. Correct.
8 Q. I am just going to ask you some questions along the same
9 lines that you have been asked earlier today, okay?
10 When you were preparing to search the premises at
11 Amerindo U.S., and when I refer to Amerindo U.S. I will be
12 referring to the premises which is the subject of the search
13 warrant.
14 What documents did you review when you were preparing?
15 A. I reviewed, as I said, the search warrant rider and the
16 affidavit used to obtain the search warrant.
17 Q. Am I correct that it was also your testimony that the
18 complaints that were attachments to the affidavits were
19 provided to the inspectors who were actually going to conduct
20 arrests?
21 A. Correct.
22 Q. And is it fair to say, then, that you were not provided
23 with the complaint, the underlying complaints against Mr. Vilar
24 and Mr. Tanaka, is that right?
25 A. Correct.

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5CESVILAR Feiter - cross
1 Q. In preparing to testify today, did you review the
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2 affidavit?

3 A. Yes.

4 Q. And prior to the search, I believe you testified that you
5 reviewed the search warrant in addition to the affidavit to
6 make a determination as to the validity of the warrant, is that
7 accurate?

8 A. No.

9 Q. Why did you review the actual search warrant?

10 A. To get a better feel to read anything I possibly could that
11 would help me hopefully that day to execute the warrant.

12 Q. And at that time, did you form a view as to whether or not
13 the search warrant was in fact valid?

14 A. No, my view is that it was valid because it had been issued
15 by a magistrate in the Southern District of New York.

16 Q. Did you read the warrant?

17 A. Yes.

18 Q. Did you read -- when I refer to the warrant, by the way,
19 for now I will be referring to both the warrant and the
20 attachment as well.

21 THE COURT: The rider.

22 MR. KOBRE: The rider, thank you.

23 Q. Did you read the rider?

24 A. Yes.

25 Q. Did you read the affidavit?

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5CESVILAR

Feiter - cross

1 A. Yes.

2 Q. And did you view as one of your responsibilities to read
3 the warrant and the affidavit to make a determination as to
4 whether or not the warrant and affidavit validly supplied
5 probable cause for a search to support a search of the
6 premises?

7 A. No.

8 Q. Did you actually undergo that task of reading it and making
9 that determination?

10 A. Could you repeat that?

11 Q. Did you undergo that task? Did you actually read the
12 documents and make a determination as to whether or not it
13 supported a view of probable cause?

14 A. No, that was not my determination to make.

15 Q. Is it your view as to whether any inspector, a postal
16 inspector present prior to the execution of the search warrant
17 was responsible for reviewing the text of the warrant and the
18 affidavit and making determinations as to whether the face of
19 the warrant and affidavit supported probable cause to search
20 the location?

21 A. Making that determination, no.

22 Q. When you reviewed the search warrant and affidavit, the
23 purpose of looking at the affidavit again, not the warrant but
24 the affidavit, if we can just expand on that a little bit, why
25 did you look at it?

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5CESVILAR

Feiter - cross

1 A. It was part of the rider, or the rider was part of it, and
2 I read what was given to me to help me perform the task that I
3 had that day.

4 Q. And what was it about the affidavit that would help you in
5 performing your task?

6 A. Nothing specific. Any piece of information I can pick up

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7 might help me down the road.
 8 Q. And in your experience of executing search warrants do you
 9 read the affidavits typically to provide some additional help
 10 as to the scope of the search?
 11 A. Some possible help, yes.
 12 Q. And in this instance was the reason why the inspectors were
 13 provided -- withdrawn.
 14 what was the reason why the other inspectors who were
 15 carrying out the search, what was the reason why they were
 16 given copies of the affidavits?
 17 A. For the same purpose, to read it and get a feel for the
 18 case. The rider would tell them what to search for. The
 19 affidavit is just additional information.
 20 Q. Was it your understanding whether the case agent would be
 21 reviewing the search warrant to see if it was supported by
 22 probable cause?
 23 A. No.
 24 MR. KOBRE: May I approach the witness, your Honor?
 25 THE COURT: You may.

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5CESVILAR Feiter - cross
 1 Q. I am showing you what has been marked as defendant Tanaka
 2 A, and I will represent to you that that document is a copy of
 3 the search warrant affidavit.
 4 MR. KOBRE: I also represent to the court that I
 5 believe we are all working off of the same marked-up copy, if
 6 you will, and we will replace it as part of the record.
 7 THE COURT: Okay. Fair enough.
 8 This is the same marked-up copy that is the exhibit to
 9 the Vilar --
 10 MR. KOBRE: Actually the second piece of it. The
 11 Vilar piece is the search warrant. This is the affidavit.
 12 THE COURT: But I am talking about what is attached as
 13 an exhibit to the Vilar papers. That is what I have been
 14 reading along with as you have been doing this.
 15 MR. KOBRE: Yes.
 16 THE COURT: Okay.
 17 Q. I will ask you to turn to page 3 and look at paragraph 6 of
 18 the search warrant affidavit. Let me first ask you: Do you
 19 recall this being a copy of the affidavit or does this appear
 20 to be a copy of the affidavit that you reviewed prior to the
 21 search?
 22 A. Yes.
 23 Q. I will ask you now to turn to page 3, paragraph 6. And do
 24 you see there at the beginning of the paragraph it indicates
 25 that in describing the schemes forming the basis for probable
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5CESVILAR Feiter - cross
 1 cause it refers the reader to the criminal complaints against
 2 Mr. Vilar and Mr. Tanaka, do you see that?
 3 A. You mean annexed as Exhibit A, is that what you are
 4 referring to?
 5 Q. Yes.
 6 A. Yes.
 7 Q. As I understand your testimony, in reading the affidavits
 8 you were not provided with a copy of the complaints against
 9 Mr. Vilar and Mr. Tanaka, correct?
 10 A. That is correct.
 11 Q. And the agents that were actually executing the search also

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12 were not provided with those complaints, correct?

13 A. Correct.

14 Q. So to the extent that the agents were looking for some
15 definition, if you will, of the nature of the scheme, and they
16 turned to the affidavit, they would not be able to appreciate
17 what the true nature of the scheme is, am I correct?

18 A. I wouldn't agree with that, no.

19 Q. Okay.

20 well, am I correct that paragraph 6 in defining the
21 scheme refers the reader to the allegations against Mr. Tanaka
22 and Mr. Vilar in the complaint?

23 A. Yes.

24 Q. So if the reader doesn't actually have the complaint, it's
25 not possible for them to know what is actually alleged in those

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5CESVILAR Feiter - cross

1 complaints when reading this affidavit, isn't that right?

2 A. I don't think I would agree with that, no. Because if you
3 continue on and read the rest of this affidavit along with the
4 rider, and knowing that you have a case agent there to answer
5 any questions, I think you have a pretty sound basis.

6 Q. We are going to get to the case agent. I am asking
7 specifically from the document itself.

8 Do you agree that a reader who is reading the
9 affidavit could not fully appreciate the allegations of the
10 scheme engaged in by Mr. Vilar and Mr. Tanaka because 2 of the
11 documents that actually laid out the scheme was missing from
12 their materials?

13 A. I am sorry, I just can't fully agree with that.

14 Q. Well, let me try it a different way.

15 The document in defining the scheme refers to 2 other
16 documents, correct?

17 A. Correct.

18 Q. And can we agree that those agents didn't have the other 2
19 documents, correct?

20 A. Correct.

21 Q. So to the extent that those 2 other documents describe
22 aspects of the scheme and those aspects were not provided in
23 this document here, the reader would not have learned those
24 facts from reading the document here?

25 A. Correct.

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5CESVILAR Feiter - cross

1 Q. And I guess what you were alluding to before when you said
2 that they would be able to speak to the case agent -- is this
3 at the initial preparatory review before the actual execution,
4 the case agent addressed the team, is that right?

5 A. Correct.

6 Q. And she was also available during the search, correct?

7 A. Correct.

8 Q. But is it your testimony that you actually have no
9 recollection as to what she said to the team?

10 A. That is correct.

11 Q. And you have no recollection as you sit here today as to
12 what she actually told the team members during the search about
13 the nature or confines of the search, is that correct?

14 A. Correct.

15 THE COURT: Inspector Feiter, the people who carried
16 out the search, were they briefed at the same time as the

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5CESVILAR Feiter - cross
1 possession of those criminal complaints when executing the
2 search warrant, isn't that correct?
3 MR. LITT: I think that misstates the prior testimony.
4 THE COURT: It's whether or not it's his recollection.
5 Overruled.
6 A. Can you repeat that?
7 Q. Is it correct as you sit hear today you have no
8 recollection of any postal inspector being in possession of the
9 criminal complaints referred to in the affidavit at the time of
10 the exercise of the search warrant, correct?
11 A. Other than those who were on the arrest teams and had the
12 complaints.
13 Q. But they weren't executing the search warrant.
14 A. No, but they were inspectors that had copies of complaints.
15 I want to make that clear.
16 Q. I am just referring actually to the execution of the search
17 warrant itself. Do we agree you have no recollection of any
18 postal inspector having those complaints, correct?
19 A. Correct.
20 Q. So would you agree that as it refers to the definition or
21 how one might interpret the word fraud schemes, it's fair to
22 say that individual postal inspectors might have had different
23 views as to what the actual fraud schemes were, correct?
24 A. Correct.
25 Q. I will ask you looking at the search warrant, paragraph 1,
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5CESVILAR Feiter - cross
1 do you see after reading paragraph 1, can you just describe
2 sort of generally what documents paragraph 1 -- withdrawn.
3 Can you just describe generally what you understood at
4 the time of the execution of the search warrant paragraph one
5 to refer to?
6 A. Collectively Amerindo, the business records that went to
7 the entity itself, its minutes, its shareholders, bylaws,
8 resolutions, things like that, client records, things like
9 that.
10 Q. Suffice it to say that as it's written as it refers to the
11 corporate records, an inspector might actually interpret that
12 to be any of the records of the 4 entities, is that fair to
13 say?
14 A. Yes.
15 Q. Now, you recall testifying earlier about the general
16 overview that inspectors received, do you recall that
17 testimony?
18 A. Yes.
19 Q. Did you actually give the general overview in the first
20 instance?
21 A. I believe I gave just a quick blurb but I actually have no
22 real recollection of what I said.
23 Q. And earlier I believe you described the blurb, if you will,
24 as something along the lines of investment fraud investigation,
25 is that correct?
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5CESVILAR Feiter - cross
1 A. Yes.
2 Q. Is it fair to say that your description to the inspectors
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3 might actually have been limited to just that, that this is an
4 investment fraud investigation or scheme, or something along
5 those lines?
6 A. I believe I would have fleshed it out a little bit more.
7 Q. And what was your basis for describing the nature of the
8 scheme to the inspectors?
9 A. It would have come from the affidavit for the search
10 warrant and also in the facts that I knew at the time because I
11 was the supervising agent for the case agent.
12 Q. So are these facts that you would have learned from the
13 case agent, Ms. Fraterrigo?
14 A. Yes.
15 Q. So if I understand this correctly, in relaying the overview
16 to the inspectors, you read the affidavit which was actually
17 signed by the case agent, correct?
18 A. Yes.
19 Q. And that had the facts as relayed by the case agent,
20 correct?
21 A. Yes.
22 Q. And you also had conversations with the case agent,
23 correct?
24 A. Yes, as her supervisor.
25 Q. And then you described to the inspectors the nature of the

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5CESVILAR

Feiter - cross

1 case and the fact they would be executing the search warrant,
2 is that right?
3 A. Correct.
4 Q. Is it your testimony that you have no recollection of your
5 conversations with Ms. Fraterrigo beforehand, in other words,
6 that helped form your basis for talking to them, as well as
7 having no recollection of what Ms. Fraterrigo actually told the
8 inspectors at the time of providing the overview, is that
9 right?
10 A. That is correct.
11 Q. And you also had mentioned before I believe on cross, I
12 think, that you might have provided or someone might have
13 provided the inspectors the name of the suspects, is that fair
14 to say?
15 A. Yes.
16 Q. Do you actually have a recollection of providing that
17 information?
18 A. An actual recollection, no.
19 Q. So is it fair to say you have no actual recollection of
20 what names were actually provided as suspects, correct?
21 A. No.
22 Q. And you also have a general recollection, I understand,
23 that names of victims were provided, is that right?
24 A. I believe so, yes.
25 Q. And do you recall the fact that the affidavit also alluded

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5CESVILAR

Feiter - cross

1 to victims?
2 A. Yes.
3 Q. Now, I am going to ask you now to turn to the affidavit,
4 page 5, paragraph E.
5 A. All right.
6 Q. Actually I am going to ask you to turn back to page 3,
7 paragraph 6A.

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8 Is it apparent from reading that that Lisa Meyer may
9 have been one of the names of the "victims" that were relayed
10 to the inspectors that day?
11 A. I believe so, yes.
12 Q. I will ask you to turn the page. Do you see paragraph B?
13 A. Yes.
14 Q. Is it fair to say that Lilly Cates might have been another
15 name who was relayed to the inspectors that day in the
16 briefing?
17 A. Yes.
18 Q. I will ask you to turn to the next page. I ask you to turn
19 the page to paragraph 5 -- I am sorry, page 5, paragraph E, as
20 in Eric.
21 Is it fair to say that Brian Harvey, Joy Urich, and
22 Paul Marcus also might have been names that were provided to
23 the inspectors that day?
24 A. Yes.
25 Q. And is it also fair to say that from your own reading of
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5CESVILAR Feiter - cross
1 the affidavit prior to the execution of the search warrant you
2 also looked to pick up the names of the victims or I should say
3 to learn the names of the victims, is that correct?
4 A. Yes.
5 Q. And you agree that from looking at paragraphs A, B and E
6 that you would have picked up those five names?
7 A. Yes.
8 Q. Can you just briefly explain to me what is your
9 understanding of the term probable cause?
10 A. It has been a long time since law school. Probable cause
11 is a level that a magistrate or a judicial officer will pass on
12 that a crime has been committed.
13 Q. Is it something that upon making a judgment that probable
14 cause has been reached or found, that you could arrest somebody
15 on that information?
16 A. If so authorized.
17 Q. And it's not until you actually acquire probable cause that
18 you would go to a judicial fact finder and ask for a warrant or
19 permission to make an arrest, correct?
20 A. Correct.
21 Q. And it's also not until you have that level of or that view
22 of the facts before you would go to a judge and ask a judge to
23 issue a warrant, correct?
24 A. Correct.
25 Q. I will ask you to look at paragraph E on page 5.
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5CESVILAR Feiter - cross
1 Do you see in that paragraph it says, "Cates told me
2 about other individuals who she believed to be investors with
3 Amerindo, some of whom may have had trouble redeeming all or
4 part of their investments, including those three individuals."
5 A. Yes.
6 Q. You agree with me that based on that allegation alone that
7 would not support you going to a judge seeking an arrest
8 relating to those particular victims, correct?
9 A. But it doesn't stand on its own.
10 Q. All I am asking you is standing alone.
11 A. Standing alone without the rest of the affidavit, with
12 nothing else, no other knowledge, surely, no.

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24 that some employees or the postal inspectors that participated
25 in the arrest received the criminal complaints?

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SCESVILAR

Feiter - redirect

1 A. Yes.

2 Q. Did some or did any or all of the employees who
3 participated in the arrests also participate in the searches?

4 A. The inspectors you mean?

5 Q. Inspectors, I am sorry.

6 A. I believe so but I am I would have to go back and check the
7 list.

8 Q. Is there some document that would refresh your recollection
9 on that score?

10 A. I would have to see the seizure lists.

11 Q. Would your master position list do it?

12 A. It might.

13 Q. I would ask if you can look at that document and see if
14 that refreshes your recollection.

15 Do you have that document?

16 A. I don't know if I have that.

17 Q. Let me ask this: would it be easier for you to look at the
18 master position list or what is Government Exhibit 2, the
19 search warrant inventory sheets?

20 A. It would be a lot quicker to look at that.

21 Q. I am handing you then what has been marked for
22 identification as Defendant V -- let me identify it as a
23 document titled master position list marked with a blue sticker
24 Defendant V and it has a number of yellow sticky tabs on the
25 right side.

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SCESVILAR

Feiter - redirect

1 MR. HOFFMAN: For identification.

2 MR. LITT: For identification.

3 MR. LITT: For the court, that is 3505C.

4 Q. Have you had a chance to look at that document?

5 A. Yes.

6 Q. Does that document refresh your recollection as to whether
7 individuals who participated in the arrest of Mr. Vilar and
8 Mr. Tanaka also participated in the search?

9 A. I believe Inspectors Feeney and Wright and Roinstack were
10 all part of arrest teams and they all were then present at the
11 search.

12 Q. What about Inspector Fraterrigo, was she part of the arrest
13 team?

14 A. Yes.

15 Q. Was she present at the search?

16 A. Yes.

17 Q. So is it your belief that at least those members or those
18 inspectors who participated in the search had access to the
19 complaints?

20 A. Yes.

21 Q. Finally, I would like to turn your attention to what I
22 believe has been marked as Defendant Exhibit E. It's the
23 warrant and rider.

24 Do you have that?

25 A. TA?

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5CESVILAR Feiter - redirect

1 Q. The document which is in your hand, what is that?

2 A. This is not marked at all.

3 Q. Handing you what has been marked as Defendant Vilar Exhibit

4 E, is that the search warrant and rider?

5 A. Yes, it's the actual warrant and the rider attached to it,

6 yes.

7 Q. And just turning your attention to paragraph 1 on the

8 attachment, in your view did that language permit postal

9 inspectors to seize every business document related to the 4

10 entities listed or was it limited by the examples of documents

11 that are included in paragraph one?

12 A. I don't think it's a total limitation but it defines what

13 we should be looking for.

14 MR. LITT: No further questions.

15 THE COURT: I was going to ask this. I thought when

16 you were asked by Mr. Kobre about this you said any documents

17 related to the Amerindo entities could be seized and I was

18 going to ask what that didn't mean but now you are saying you

19 think it's limited by the language?

20 THE WITNESS: What is the best way to put it? without

21 a doubt anything that is listed here as a direct item obviously

22 is going and anything that is related to those is going too.

23 THE COURT: Related to what?

24 THE WITNESS: To the already-listed items. It had to

25 be clearly a business record, a business document, something

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5CESVILAR Feiter - redirect

1 related to these businesses, yes, then it's going.

2 THE COURT: The language says, "including but not

3 limited to."

4 THE WITNESS: Right.

5 THE COURT: So it's not limited to the types of items

6 listed there in paragraph one of the rider, correct?

7 THE WITNESS: Correct.

8 THE COURT: So anything that would have Amerindo

9 Cayman stationery on it, would that be something that in your

10 words would go?

11 THE WITNESS: As long as it had writing on it and it

12 wasn't just blank.

13 THE COURT: Okay.

14 Any business cards that had Amerindo Cayman on it,

15 would those go?

16 THE WITNESS: I probably would take one and leave the

17 other hundred.

18 THE COURT: Any bills that are sent to Amerindo

19 Cayman, if they are addressed to Amerindo Cayman, would those

20 go?

21 THE WITNESS: Yes.

22 THE COURT: So what wouldn't go if it had some sort of

23 indication that it was an official business record?

24 THE WITNESS: Probably all official business records.

25 I just put the limitation on it with the stationery, those type

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5CESVILAR Feiter - redirect

1 of objects.

2 THE COURT: Go ahead, Mr. Litt, if you want to follow

3 up.

4 MR. LITT: No further questions.

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5 THE COURT: Any recross?
6 MS. WOLFE: Yes, your Honor, just a few questions.
7 RECROSS EXAMINATION
8 BY MS. WOLFE:
9 Q. Were there any other entities located on the premises other
10 than the 4 listed in paragraph one?
11 A. When you --
12 Q. Of the rider.
13 A. When you refer to premises do you mean the floor or the
14 area searched?
15 Q. The area authorized to be searched.
16 A. Not to my knowledge that I can remember now.
17 Q. And you mentioned that you searched only one position
18 yourself.
19 A. I think it was one or two.
20 Q. Do you remember what the positions consisted of?
21 A. I believe that they were like call it the secretary area
22 behind the main reception desk.
23 MR. LITT: Your Honor, this is beyond the scope.
24 THE COURT: Yes. In recross you can identify the
25 question asked on redirect and then take it from there.
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5CESVILAR Feiter - recross
1 MS. WOLFE: It was a question that Mr. Kobre asked but
2 in any event --
3 THE COURT: I am give you some leeway on that.
4 Q. You mentioned that some of the computers may have been
5 imaged on the premises?
6 A. I believe but, again, as I said, I am not a digital
7 evidence person. Our digital people would have handled that
8 and for me to tell you even what was imaged, how it was done or
9 where, I can't.
10 Q. Who were the digital people who were present at the search?
11 A. Inspector Jim Backman was the inspector in charge of that.
12 Q. And were there people working with him?
13 A. I believe Mike Ablazer out of our lab was there.
14 Q. Anyone else?
15 A. I would have to go back and look at the list.
16 Q. And how many agents in total were enlisted to conduct the
17 search?
18 A. I would have to go see the sign-in and count up. I don't
19 know offhand.
20 Q. Well, you were present at the morning briefing, right?
21 A. Yes.
22 Q. Was it more than 20 agents?
23 A. Once again, without seeing the sign-in list I don't
24 remember how many were there.
25 THE COURT: Do you have the sign-in, Mr. Litt?
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5CESVILAR Feiter - recross
1 MR. LITT: 3505A, your Honor.
2 THE COURT: If the number is relevant I imagine you
3 can get a stipulation on this before the speedy trial clock
4 expires.
5 Q. Let me show you a document that has been marked 3505A.
6 MS. WOLFE: May I approach, your Honor?
7 THE COURT: Is it the number of people?
8 Can you count it up and let's stipulate to it a move
9 on. I can see myself it's somewhere between 15 and 25 people.